



King County Board of Ethics
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KING COUNTY BOARD OF ETHICS MEETING NOTICE

When: Monday, April 16, 2001, at 4:30 p.m.

Where: Bank of California Building
900 Fourth Avenue, 4th Avenue and Marion Street, Seattle
5th floor conference room (Northwest corner of building)

AGENDA

1. ***Approval of Agenda***
2. ***Approval of Meeting Minutes of March 19, 2001.***
3. ***County Reorganization.*** Discussion of plans affecting the Board of Ethics.
4. ***Ethics Code Review.*** Discussion of work plan.
5. ***Staff Report***
 - Receipt of Gifts by County Staff—briefing
 - Training & Education—update
 - Financial Disclosure Program—status
 - Post Employment Amendment—status
 - Filing Orders Amendment—status
 - King County Rural Forest Commission—follow-up

cc: Ron Sims, King County Executive
King County Councilmembers
Duncan Fowler, Director—Ombudsman, Office of Citizen Complaints
James J. Buck, Acting Director, DIAS
Donald J. Porter, Senior Deputy Prosecuting Attorney

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ALTERNATE FORMATS AVAILABLE

**Minutes of the April 16, 2001, Meeting
of the King County Board of Ethics**

The April 16, 2001, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:30 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair
Mr. Roland H. Carlson
Margaret T. Gordon, Ph.D.
Lembhard G. Howell, Esq.
Rev. Paul F. Pruitt

Others in attendance:

Ms. Catherine A. Clemens, Administrator, King County Board of Ethics
Mr. James J. Buck, Acting Director, Department of Information and Administrative Services
Mr. Donald J. Porter, Senior Deputy Prosecuting Attorney
Mr. John Chelminiak, Chief of Staff, King County Council

1. *Proposed Agenda.* Following changes in the number and order of the agenda items, Mr. Carlson moved and Rev. Pruitt seconded that the board approve the proposed agenda. The board unanimously adopted the motion.

Chair Price Spratlen asked for introductions from those present.

2. *Approval of Meeting Minutes of March 19, 2001.* Rev. Pruitt moved and Dr. Gordon seconded that the board approve the February 20, 2001 meeting minutes. The board unanimously adopted the motion.

3. *Review of the Code of Ethics.* Ms. Clemens briefed the board. She reviewed decisions made by the board one year ago. The board had agreed to review three provisions based on need for improvement or clarification: post employment, filing requirements and penalties. It set target dates for completion as: December 2001, December 2001, and June 2003 respectively. Chair Price Spratlen stated she was pleased the board and staff had kept to its proposed schedule and wished to proceed in the established systematic process.

Mr. Chelminiak arrived at 4:34 p.m.; Mr. Howell arrived at 4:37 p.m.; Mr. Buck arrived at 4:38 p.m. Due to new arrivals, Chair Price Spratlen asked for introductions from those present.

With the arrival of Mr. Buck, Chair Price Spratlen asked that we table Item 3 and move to Item 4, County Reorganization.

4. *County Reorganization.* Mr. Buck briefed the board. A \$36 million budget shortfall in 2002 is anticipated. This is due, in part, to projected revenues of less than 3% and expenses in excess of 6%. In response, county leadership has decided to reorganize. Four departments, Information and Administrative Services, Finance, Human Resources, and Construction and Facilities Management, will consolidate into one department. Mr.

Paul Tanaka will head the new department and Ms. Sheryl Whitney will serve as Deputy. In addition, Park System and Natural Resources will combine, although this will not affect the ethics board and office.

The Board of Ethics and office will be part of the new department, and the board administrator will report to Ms. Bailey delongh, manager of the Office of Civil Rights Enforcement. By placing the ethics office under the OCRE, Mr. Buck stated this reorganization will make the ethics office more visible and focused. The OCRE manager reports to one of the 5 division managers, who then report to the deputy or director of the combined department. Currently the ethics administrator reports to the DIAS director.

Chair Price Spratlen expressed concern about the dramatic change in reporting relationships for the ethics office. Dr. Gordon stated that the ethics office should be separate from the civil rights office and Mr. Howell agreed. Dr. Gordon asked how this merger would make the ethics office more efficient. Chair Price Spratlen stated that ethics is important countywide and needs to report directly to a top administrator. Ethics needs to stand alone for effectiveness. She asked Mr. Buck what process they might initiate to express their concerns. Mr. Howell stated there is no financial impact by maintaining autonomy. Mr. Carlson agreed and stated that he could not believe anyone could view placing the ethics office under the OCRE would result in a significant reduction of expenses. The board asked Ms. Clemens her opinion. She stated that currently the office had good access to the executive through the department director. In the proposed reporting relationship, the voice of the office would be muffled through layers of management. Dr. Price Spratlen stated that direct reporting make a great difference and she would like to see the ethics administrator report to as high a position as possible. Mr. Howell said he felt the office should not be independent, but apart. The Chair again asked how the board might effectively convey that message to decision-makers. After discussion, the board agreed that the Chair and Mr. Carlson should meet with the executive and directed Ms. Clemens to set a meeting as soon as possible. Mr. Buck stated that OCRE is independent and separate and that the new department would have approximately 1000 employees. Working with the OCRE manager will be as responsive as working with himself. He promised to take the board's concerns back to the planning group. Mr. Pruitt agreed that the board should go to the executive with our concerns and not expect Mr. Buck to argue our case. Chair Price Spratlen agreed. As a summation, she stated that reporting relationships are important and made a great difference in the minds of individuals and how they view the ethics office.

Upon request of Mr. Howell, the board returned to review the *Meeting Minutes of March 19, 2001*. Mr. Howell asked about county employees receiving representation from the prosecuting attorney's office in the case of a suit. Mr. Porter replied that employees may ask for legal representation. The Chief Civil Deputy reviews the matter and makes the decision based on, among other issues, if the employee was acting in good faith and within the scope of his or her responsibilities. Mr. Howell asked how an employee goes about requesting counsel. Mr. Porter stated through established procedures in the PAO. He added that this is the strongest reason for the requirement of the Ombudsman to file findings of reasonable cause of violations of the ethics code with the PAO since it serves as an early alert should they be asked to defend. In the case of a conflict of interest within the PAO, the office will hire outside counsel to avoid such conflict. The employee would be

reimbursed, again if acting in good faith, regardless of the Ombudsman's finding. The County Charter calls for this and great care is taken to ensure fair representation. Other board members noted this is the case in universities and private industry.

The Chair directed the administrator to continue discussion of *Review of the Code of Ethics*. Ms. Clemens noted that the next item for discussion was penalties. Chair Price Spratlen asked if Ms. Clemens was aware of any particular problems with the provision. Ms. Clemens stated that, while the code outlined certain penalties, no one was identified to enforce penalties other than criminal penalties now enforced by the judicial system. She noted that the PAO had opined that neither the Ombudsman nor the ethics office could enforce penalties and they therefore relied on recommendations and offers of training and education. The board directed the administrator and counsel to bring to the next meeting a history of the penalties provision, other jurisdictions, PAO opinions and recommendations on how to proceed.

Mr. Howell left the meeting at 5:55 p.m.

5. *Staff Report*. Ms. Clemens briefed the board. Receipt of Gifts by Council Staff. During a review of a statement of financial and other interest submitted by a council staff, Ms. Clemens noted that the staff member had received a \$3 gift certificate from a lobbyist. Upon inquiry, the staff member stated that it was common practice among counsel staff and did not feel it was important. Because the administrator role is to inform and educate around issues where violations of the code, or the appearance of violations, may occur, she attempted to discuss the matter with the counsel staff. The staff was not open to discussion and so Ms. Clemens addressed the matter with Mr. Chelminiak. Mr. Chelminiak's delayed response was a misinterpretation of the code, previous advisory opinions and a denial of any problem. Mr. Chelminiak stated that the county council is noted for its open government. Anyone may walk in at any time. Lobbyists, too, have open access. He stated that because the gift certificate was for refreshments, it should fall into the category of receiving de minimus refreshment. Ms. Clemens pointed out that the reference to refreshment is in the context of a meeting; a gift handed to a council staff member by a lobbyist during the holidays is not the same, and the board did not intend it to be interpreted in that way. Mr. Chelminiak stated the amount of the gift certificate was too small to be of concern to the board. Mr. Carlson asked where do you draw the line on the amount of a gift? Ms. Clemens noted the code was specific on the issue. Chair Price Spratlen stated that the council should have established guidelines. Dr. Gordon asked why is it that lobbyist give gifts? Their clients must think it is worthwhile since they must designate a part of their budget for gifts. She noted that reporters are not allowed to receive gifts. Mr. Chelminiak stated that the gifts had nothing to do with access and that reporters are in fact allowed to receive gifts. Ms. Clemens stated that the appearance of impartiality is crucial, especially for the council, since it is the body that makes the laws and appropriates county funds. Dr. Price Spratlen stated that the board was in general agreement that there should be no gifts but there should be a mechanism for council to determine what they will do about it. It was agreed that Ms. Clemens should prepare a follow up memo to Chair von Reichbauer and include an invitation for staff training. Training and Education. Ms. Clemens provided the board with the current training status and noted she would be conducting training for contract managers in May along with staff from the Procurement and Contract Services Division, Department of Finance. In addition, staff from the Office of Citizen Complaints will

be attending the supervisor training course following her invitation. Financial Disclosure Program. Ms. Clemens distributed filing compliance figures as of April 16th at noon: of 1929 employees required to file, 84 have not; of 464 board/commission members required to file, 60 have not. Ms. Clemens noted that this is the best compliance record shown by the county at this point in time. Ms. Clemens acknowledged the work of Mr. Peter Toliver, this year's consultant disclosure coordinator, for his role in the program's success. She will now seek the executive's support in calling for all outstanding forms. Post Employment Amendment. Ms. Clemens detailed outreach efforts asking for public comment from employees to civic groups. All comments will be presented at the May meeting. Filing Orders Amendment. Ms. Clemens informed the board that she had prepared and delivered the transmittal documents from ethics to Mr. Buck, Mr. Buck to Executive Sims and from Executive Sims to the Council. The status of those materials is unknown. King County Rural Forest Commission. Ms. Clemens stated that, because she is charged with education and training on behalf of the board, she has invited all staff liaisons to boards/commissions to meet and discuss potential conflicts of interest for members, and strategies to deal with those situations. She has also asked liaisons to send written policies so that she might collect and distribute to others. Ms. Clemens drew the board's attention to one of the best examples from the HIV/AIDS Planning Council that draws on the requirement to disclose and recuse from all participation once a conflict was identified. Mr. Carlson stated that, although he had not been at the previous meeting, he wanted to commend the RFC chair for her efforts to solve the conflict situation and sympathized with her. Mr. Carlson commended Ms. Clemens for her follow up materials to the RFC and staff.

Mr. Carlson moved and Rev. Pruitt seconded a motion to adjourn the meeting. The board unanimously approved the motion and the meeting was adjourned at 6:35 p.m.

Approved this 21st day of May, 2001, by the King County Board of Ethics.

Signed for the Board: _____
Dr. Lois Price Spratlen, Chair